

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BARBARA MATNEY,

Plaintiff,

Case No. 05-70104

vs.

TEDESCO BUILDING SERVICES,
HON. GEORGE CARAM STEEH

Defendant.

ORDER DENYING PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT JUDGMENT
[DOCUMENT NO. 10] WITHOUT PREJUDICE AND CONDITIONALLY GRANTING
DEFENDANT'S MOTION TO SET ASIDE DEFAULT [DOCUMENT NO. 13]

This matter has come before the court on plaintiff Barbara Matney's motion for entry of default judgment and defendant Tedesco Building Services' motion to set aside default. The court held a conference in chambers with counsel on June 21, 2005 before going on the record in this matter. The court is persuaded that while the evidence does not demonstrate a sustained effort to evade service of process by defendant's registered agent, Gary Tedesco, there is ample evidence of a failure to cooperate and to be available for service. Now, therefore, for the reasons more fully stated on the record,

IT IS HEREBY ORDERED that plaintiff's motion for entry of default judgment is DENIED without prejudice.

IT IS HEREBY FURTHER ORDERED that defendant's motion to set aside default is CONDITIONALLY GRANTED upon the payment of \$1,200.00 in sanctions to plaintiff's counsel by July 1, 2005. This amount represents \$200.00 in costs and partial reimbursement of \$1,000.00 in attorney fees expended unnecessarily by plaintiff.

Upon receipt of the sanctions amount, plaintiff's counsel shall file an acknowledgment with the court.

If payment of sanctions as ordered is not made by July 1, 2005, defendant's motion to set aside default will be denied and the court will consider the issue of damages on default judgment for plaintiff. If payment of sanctions is made, then the default will be set aside and defendant shall file an answer to the complaint within 20 days of the date of this order.

It is so ordered.

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: June 21, 2005

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on June 21, 2005, by electronic and/or ordinary mail.

s/Josephine Chaffee
Secretary/Deputy Clerk